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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,384	04/27/2006	Simon Treadwell	PERY 2 00010	5053

7590 12/08/2008  
Fay, Sharpe, Fagan, Minnich & McKee,  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2579

EXAMINER
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WINNER, TONY H

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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12/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,384	<b>Applicant(s)</b> TREADWELL ET AL.	
	<b>Examiner</b> Tony H. Winner	<b>Art Unit</b> 3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 11 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 6, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Acknowledgment***

1. Receipt of the amendment filed 9/4/08 has been acknowledged and entered.

The office is withdrawing all claims objection in view of the amendment.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arlington et al. (USPN. 7,000,933 B2) and in view of Turner (USPN. 6,964,425 B2).

Arlington discloses a balance transporter serves as a motorized towing device (figures 4-5) comprising:

a pair of wheels;

a chassis housing at least one motor for causing the rotation of said wheels about an axis to move the chassis over a surface;

a controller for controlling operation of said motor and thereby controlling movement of the chassis over the surface (not mention the reference, however, such a control is inherit in this type of balancing transporter known as SEGWAY);

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a steering column (18) connected to said chassis for steering said towing device;  
and

an attachment mechanism on said chassis for cooperating with a corresponding attachment mechanism of an associated object for towing, controller operating said motor to cause the rotation of said wheels and the movement of said chassis over a surface, said the attachment mechanism operating about an axis of rotation of said wheels to permit releasably securing said chassis to an object desired to be towed or moved while permitting rotational movement of said motorized towing device relative to said object, about said axis.

Arlington lacks the teaching of a quick release mechanism as claimed.

Turner discloses a clamping mechanism that allow quick from the wheel axle of a bicycle wheel axle, wherein the yoke comprise a stationary portion (102), a rotating portion (108) and a closure mechanism (112 and 120) for securing said upper portion to said rotation portion.

Therefore, it would have been obvious to one skilled in the art to modify the attachment mechanism of Arlington to include the clamping mechanism as taught by Turner, for the reason set forth above.

1. Claims 2-5, 7, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arlington et al. as modified by Turner and further in view of Schoenberg (USPN. 7,017,685 B2).

Arlington as modified by Turner is disclosed above but lacks the teaching of a reversible direct current variable speed electric motor for each wheel.

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Schoenberg discloses a motorized bicycle wherein a variable speed/reversible direct electric motor is used for each wheel so as to provide different wheel speeds needed when going around curves, thus eliminating the need for a differential gear.

Therefore, it would have been obvious to one skilled in the art to modify the vehicle of Arlington as modified by Turner to include the dual motors as taught by Schoenberg, for the reason set forth above.

Regarding claims 2-5, 7, 8, 10, 11, and 13-15 Arlington as modified by Turner and Schoenberg meets all of the claimed limitations.

3. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arlington et al. as modified by Turner and Schoenberg and further in view of Brunet (USPN. 4,709,772).

Arlington as modified by Turner and Schoenberg is disclosed above but lacks the teaching of using motors as dynamic brakes.

Brunet discloses a motorized moving device, wherein motors are modified or reversed its function for braking the wheels. Therefore, the moving device would eliminate the need for a separate braking system, thus, reducing cost and complexity.

Therefore, it would have been obvious to one skilled in the art to modify the vehicle of Arlington as modified by Turner and Schoenberg to include the braking function of the motors as taught by Brunet, for the reasons set forth above.

***Response to Arguments***

4. Applicants' arguments filed 9/4/08 have been fully considered but they are not persuasive.

The newly amended preamble "a towing device for providing assistive motive power to an operator while walking" does not make the claim patentable distinct from the prior art." The Examiner takes position that the word "for" is a functional recitation and has been given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language.

***Allowable Subject Matter***

5. Claims 6, 9, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 is allowed.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached on (571) 272-6651. Currently, the fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.

/Tony H. Winner/  
Primary Examiner, Art Unit 3611  
December 4, 2008